

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SENATE BILL 1560

AN ACT

AMENDING SECTIONS 33-1242 AND 33-1803, ARIZONA REVISED STATUTES; RELATING TO CONDOMINIUMS AND PLANNED COMMUNITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 33-1242, Arizona Revised Statutes, is amended to
3 read:

4 33-1242. Powers of unit owners' association: notice of
5 violation

6 A. Subject to the provisions of the declaration, the association may:

7 1. Adopt and amend bylaws and rules.

8 2. Adopt and amend budgets for revenues, expenditures and reserves and
9 collect assessments for common expenses from unit owners.

10 3. Hire and discharge managing agents and other employees, agents and
11 independent contractors.

12 4. Institute, defend or intervene in litigation or administrative
13 proceedings in its own name on behalf of itself or two or more unit owners on
14 matters affecting the condominium.

15 5. Make contracts and incur liabilities.

16 6. Regulate the use, maintenance, repair, replacement and modification
17 of common elements.

18 7. Cause additional improvements to be made as a part of the common
19 elements.

20 8. Acquire, hold, encumber and convey in its own name any right, title
21 or interest to real or personal property, except that common elements may be
22 conveyed or subjected to a security interest only pursuant to section
23 33-1252.

24 9. Grant easements, leases, licenses and concessions through or over
25 the common elements.

26 10. Impose and receive any payments, fees or charges for the use,
27 rental or operation of the common elements other than limited common elements
28 described in section 33-1212, paragraphs 2 and 4 and for services provided to
29 unit owners.

30 11. Impose charges for late payment of assessments and, after notice
31 and an opportunity to be heard, impose reasonable monetary penalties upon
32 unit owners for violations of the declaration, bylaws and rules of the
33 association.

34 12. Impose reasonable charges for the preparation and recordation of
35 amendments to the declaration or statements of unpaid assessments.

36 13. Provide for the indemnification of its officers and executive board
37 of directors and maintain directors' and officers' liability insurance.

38 14. Assign its right to future income, including the right to receive
39 common expense assessments, but only to the extent the declaration expressly
40 provides.

41 15. Be a member of a master association or other entity owning,
42 maintaining or governing in any respect any portion of the common elements or
43 other property benefitting or related to the condominium or the unit owners
44 in any respect.

1 16. Exercise any other powers conferred by the declaration or bylaws.
2 17. Exercise all other powers that may be exercised in this state by
3 legal entities of the same type as the association.

4 18. Exercise any other powers necessary and proper for the governance
5 and operation of the association.

6 B. A UNIT OWNER WHO RECEIVES A WRITTEN NOTICE THAT THE CONDITION OF THE
7 PROPERTY OWNED BY THE UNIT OWNER IS IN VIOLATION OF A REQUIREMENT OF THE
8 CONDOMINIUM DOCUMENTS WITHOUT REGARD TO WHETHER A MONETARY PENALTY IS IMPOSED
9 BY THE NOTICE MAY PROVIDE THE ASSOCIATION A WRITTEN RESPONSE BY SENDING THE
10 RESPONSE BY CERTIFIED MAIL WITHIN TEN BUSINESS DAYS AFTER THE DATE OF THE
11 NOTICE. THE RESPONSE SHALL BE SENT TO THE ADDRESS CONTAINED IN THE RECORDED
12 NOTICE PRESCRIBED BY SECTION 33-1256, SUBSECTION J. WITHIN TEN BUSINESS DAYS
13 AFTER RECEIPT OF THE CERTIFIED MAIL CONTAINING THE RESPONSE FROM THE UNIT
14 OWNER, THE ASSOCIATION SHALL RESPOND TO THE UNIT OWNER WITH A WRITTEN
15 EXPLANATION REGARDING THE NOTICE. THE WRITTEN EXPLANATION FROM THE
16 ASSOCIATION SHALL PROVIDE AT LEAST THE FOLLOWING INFORMATION:

17 1. THE PROVISION OF THE CONDOMINIUM DOCUMENTS THAT ALLEGEDLY HAS BEEN
18 VIOLATED.

19 2. THE DATE OF THE VIOLATION OR THE DATE THE VIOLATION WAS OBSERVED.

20 3. THE NAME OF THE PERSON OR PERSONS WHO OBSERVED THE VIOLATION.

21 4. THE PROCESS THE UNIT OWNER MUST FOLLOW TO CONTEST THE NOTICE.

22 C. THE ASSOCIATION SHALL NOT PROCEED WITH ANY ACTION TO ENFORCE THE
23 CONDOMINIUM DOCUMENTS BEFORE OR DURING THE TIME PROVIDED IN SUBSECTION B OF
24 THIS SECTION REGARDING THE EXCHANGE OF INFORMATION BETWEEN THE ASSOCIATION
25 AND THE UNIT OWNER.

26 Sec. 2. Section 33-1803, Arizona Revised Statutes, is amended to read:

27 33-1803. Assessments; penalties; notice of violation

28 A. Unless limitations in the community documents would result in a
29 lower limit for the assessment, the association shall not impose a regular
30 assessment that is more than twenty per cent greater than the immediately
31 preceding fiscal year's assessment without the approval of the majority of
32 the members of the association. Unless reserved to the members of the
33 association, the board of directors may impose reasonable charges for the
34 late payment of assessments. A payment by a member is deemed late if it is
35 unpaid fifteen or more days after its due date, unless the community
36 documents provide for a longer period. Charges for the late payment of
37 assessments are limited to the greater of fifteen dollars or ten per cent of
38 the amount of the unpaid assessment. Any monies paid by the member for an
39 unpaid assessment shall be applied first to the principal amount unpaid and
40 then to the interest accrued.

41 B. After notice and an opportunity to be heard, the board of directors
42 may impose reasonable monetary penalties on members for violations of the
43 declaration, bylaws and rules of the association. Notwithstanding any
44 provision in the community documents, the board of directors shall not impose
45 a charge for a late payment of a penalty that exceeds the greater of fifteen

1 dollars or ten per cent of the amount of the unpaid penalty. A payment is
2 deemed late if it is unpaid fifteen or more days after its due date, unless
3 the declaration, bylaws or rules of the association provide for a longer
4 period. Any monies paid by a member for an unpaid penalty shall be applied
5 first to the principal amount unpaid and then to the interest
6 accrued. Notice pursuant to this subsection shall include information
7 pertaining to the manner in which the penalty shall be enforced.

8 C. A MEMBER WHO RECEIVES A WRITTEN NOTICE THAT THE CONDITION OF THE
9 PROPERTY OWNED BY THE MEMBER IS IN VIOLATION OF A REQUIREMENT OF THE
10 COMMUNITY DOCUMENTS WITHOUT REGARD TO WHETHER A MONETARY PENALTY IS IMPOSED
11 BY THE NOTICE MAY PROVIDE THE ASSOCIATION WITH A WRITTEN RESPONSE BY SENDING
12 THE RESPONSE BY CERTIFIED MAIL WITHIN TEN BUSINESS DAYS AFTER THE DATE OF THE
13 NOTICE. THE RESPONSE SHALL BE SENT TO THE ADDRESS CONTAINED IN THE RECORDED
14 NOTICE PRESCRIBED BY SECTION 33-1807, SUBSECTION J. WITHIN TEN BUSINESS DAYS
15 AFTER RECEIPT OF THE CERTIFIED MAIL CONTAINING THE RESPONSE FROM THE MEMBER,
16 THE ASSOCIATION SHALL RESPOND TO THE MEMBER WITH A WRITTEN EXPLANATION
17 REGARDING THE NOTICE. THE WRITTEN EXPLANATION FROM THE ASSOCIATION SHALL
18 PROVIDE AT LEAST THE FOLLOWING INFORMATION:

19 1. THE PROVISION OF THE COMMUNITY DOCUMENTS THAT ALLEGEDLY HAS BEEN
20 VIOLATED.

21 2. THE DATE OF THE VIOLATION OR THE DATE THE VIOLATION WAS OBSERVED.

22 3. THE NAME OF THE PERSON OR PERSONS WHO OBSERVED THE VIOLATION.

23 4. THE PROCESS THE MEMBER MUST FOLLOW TO CONTEST THE NOTICE.

24 D. THE ASSOCIATION SHALL NOT PROCEED WITH ANY ACTION TO ENFORCE THE
25 COMMUNITY DOCUMENTS BEFORE OR DURING THE TIME PROVIDED IN SUBSECTION C OF
26 THIS SECTION REGARDING THE EXCHANGE OF INFORMATION BETWEEN THE ASSOCIATION
27 AND THE MEMBER.